

Message Text

SECRET

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FM AMEMBASSY KINGSTON

TO SECSTATE WASHDC PRIORITY 4440

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S E C R E T SECTION 1 OF 2 KINGSTON 1244/1

EXDIS

PASS TO OPIC

TUNIS FOR AMBASSADOR GERARD

E.O. 11652: GDS

TAGS: EFIN, EMIN, US, JA

SUBJECT: BAUXITE NEGOTIATIONS SITREP #29

1. HERewith THE TEXT OF THE PAPER PRESENTED TO THE
INDUSTRY BY PAT ROSSEAU, CHAIRMAN OF THE BAUXITE COMMISSION
AT THE APRIL 3 NEGOTIATING SESSION.

BEGIN TEXT

GOVERNMENT OF JAMAICA NEGOTIATIONS WITH
BAUXITE ALUMINA COMPANIES

CHAIRMAN'S STATEMENT

SINCE OUR LAST MEETING, THE NEGOTIATION TEAM HAVE HAD
THE OPPORTUNITY TO CONSIDER THE MEMORANDUM SUBMITTED BY YOU
DATED THE 27 MARCH, 1974 AND ENTITLED "THE COMPANIES' JOINT
POSITION". TODAY, WE ARE GOING TO DIRECT OUR ATTENTION TO
TAXATION MATTERS BECAUSE WE HAVE CONSTANTLY EMPHASISED TO YOU
THE FACT THAT IN TERMS OF THE SEQUENCE IN WHICH THE MATTERS
HAD TO BE DEALT WITH AND SETTLE, TAXATION WAS THE FIRST MATTER
WHICH HAD TO BE DEALT WITH ALTHOUGH THIS DID NOT EXCLUDE

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THE GOVERNMENT'S INTEREST IN REACHING A DEFINITE POSITION

ON THE OTHER PROPOSALS PUT TO THE COMPANIES.

WE HAVE READ YOUR INDIVIDUAL RESPONSES TO THE GOVERNMENT'S PROPOSALS CONCERNING FOREIGN EXCHANGE AND PARTICIPATION. ALTHOUGH WE CANNOT DEAL WITH THESE AT THIS TIME IN DETAIL, I OUGHT TO REITERATE FOR YOUR BENEFIT THE SUBSTANCE OF THE PRIME MINISTER'S STATEMENT TO YOUR PRESIDENTS. THE PRIME MINISTER INDICATED THE GOVERNMENT'S DESIRE TO WORK OUT A NEW RELATIONSHIP WITH THE COMPANIES WHICH WOULD BE VIABLE BOTH IN ECONOMIC AND POLITICAL TERMS. IT IS THIS CONCEPT WHICH WILL CREATE THE ATMOSPHERE OF SECURITY WHICH YOU HAVE YOURSELVES SPOKEN SO ELOQUENTLY ABOUT, AND WHICH WILL ENSURE A PERMANENT PLACE FOR YOUR COMPANIES IN THE DEVELOPMENT OF THE BAUXITE AND ALUMINA INDUSTRY HERE. IT IS THIS RELATIONSHIP THAT I REFERRED TO IN MY OPENING STATEMENT AS CREATING A PERMANENT LONG-TERM RELATIONSHIP BETWEEN THE COMPANIES AND THE GOVERNMENT.

IN THIS CONNECTION WE MUST IN FRANKNESS SAY TO YOU THAT NEGATIVE RESPONSES DAMAGE THE OPPORTUNITY FOR SECURITY RATHER THAN ENHANCE IT.

BECAUSE OF THE LIMITED TIME NOW AVAILABLE FOR FURTHER DISCUSSIONS ON THE SUBJECT OF TAXATION, IT WOULD BE OF GREAT BENEFIT IF THE DISCUSSIONS COULD PROCEED ON A FACTUAL BASIS WITH THE COMPANIES SUPPORTING THEIR PROPOSAL DNA POSITIONS WITH ACCURATE DATA, AND THAT THIS DATA BE MADE AVAILABLE TO THE GOVERNMENT'S TEAM.

I FIND IT NECESSARY TO EMPHASISE THE NEED FOR ACCURACY SINCE WE HAVE BEEN DISAPPOINTED TO FIND THAT IN AT LEAST THREE CASES, SUBMISSIONS HAVE BEEN BASED UPON DATA WHICH WERE SUBSEQUENTLY FOUND TO BE FAULTY. WE HAVE NOT CONCLUDED OUR EXAMINATION OF THE DATA SUBMITTED BY ALL THE COMPANIES, AND TRUST THAT THESE WILL NOT YIELD FURTHER EVIDENCE OF FAULTY INFORMATION. I SHOULD ALSO POINT OUT THAT THE GOVERNMENT'S WILLINGNESS TO NEGOTIATE RATHER THAN IMPOSE TAXATION CAN ONLY BE SUSTAINED BY THE PRESENTATION OF FAIR, CORRECT, ACCURATE AND UNQUESTIONED INFORMATION

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IN MY LETTER OF 3RD APRIL, 1974, I INDICATED THE TEAM'S DISAPPOINTMENT BOTH WITH THE CONCEPT AND DOLLAR VALUE OF YOUR TAXATION PROPOSALS. TODAY WE WOULD LIKE TO RESPOND POSITIVELY TO YOUR PROPOSAL ON TAXATION. YOUR PROPOSAL AS SET OUT IN PARAGRAPH A(2) OF YOUR MEMORANDUM OF THE 27TH MARCH SHOULD BE CONSIDERED AGAINST A BACKGROUND OF TWO ALUMINA COMPANIES WHO HAVE PAID NO INCOME TAX FROM THE DATE WHEN THEY COMMENCED OPERATION UP TO THE PRESENT TIME, AND THAT IN THE CASE OF THE THREE COM-

PANIES THAT MINE AND EXPORT BAUXITE, THE ADDITIONAL REVENUE THAT WOULD BE DERIVED BY THE GOVERNMENT RANGES FROM NIL TO 19 CENTS PER TON OF BAUXITE MINED. IN ANY EVENT, THE BASIC RELATIONSHIP WHICH YOU PROPOSE BETWEEN THE GOVERNMENT'S TAX TAKE AND THE PRICE OF ALUMINIUM PIG IS PROFOUNDLY UNSATISFACTORY SINCE AT THE PRICE OF 29 CENTS PER POUND, YOU ARE IN EFFECT OFFERING THE GOVERNMENT LESS THAN 2 PERCENT OF YOUR GROSS PROCEEDS FROM THE SALE OF ALUMINIUM PIG. FURTHER, THE TAX PROPOSED REPRESENTS 1/2 CENT PER POUND OF ALUMINIUM PIG, A CALCULATION WHICH AS YOU ARE WELL AWARE IS BASED UPON THE RELATIONSHIP BETWEEN TAXES AT THE BAUXITE STAGE AND THE PRICE OF ALUMINIUM PIG WHICH WAS QUOTED BY MR. JOHN D. HARPER, PRESIDENT OF ALCOA, IN THE WALL STREET JOURNAL OF 24TH JANUARY, 1974.

WE HAVE ALSO CONSIDERED YOUR PROPOSED ESCALATOR CLAUSE IN PARAGRAPH A8, AND WE FIND THIS QUITE UNREALISTIC. IF THE PRICE OF ALUMINIUM PIG ROSE TO 33 CENTS PER POUND, THEN EXCEPT IN THE CASE OF THE TWO COMPANIES WHO ARE NOT NOW PAYING TAXES, THE INCREASE IN REVENUE WOULD RANGE BETWEEN 17 CENTS AND 44 CENTS PER TON OF BAUXITE AS A RESULT OF THE 4 CENTS PER POUND INCREASE IN THE PRICE OF ALUMINIUM PIG. INDEED, USING ROUND FIGURES, YOUR ESCALATION FORMULA PROPOSES THAT AT 33 CENTS PER POUND, THE GOVERNMENT WILL RECEIVE AN ADDITIONAL 3 MILLION DOLLARS IN REVENUE AS COMPARED WITH AN INCREASE IN YOUR GROSS PROCEEDS FROM THE SALE OF ALUMINIUM MANUFACTURED FROM JAMAICAN BAUXITE OF AT LEAST 240 MILLION DOLLARS- (15 MILLION TONS OF BAUXITE YIELDING 3 MILLION TONS OF ALUMINIUM AT 80 DOLLARS PER TON). NO FURTHER CALCULATIONS ARE NEEDED TO ESTABLISH THE MINISCULE YIELD THAT YOUR FORMULA WILL BRING TO THE PUBLIC REVENUES OF JAMAICA.

IN GENERAL, WE ARE LEFT WITH THE FEELING THAT YOUR REVENUE PROPOSAL REFLECTS YOUR PERSISTENT CONCERN WITH THE GOVERNMENT'S REVENUE NEEDS-A MATTER ON WHICH YOUR ADVICE HAS NEVER BEEN SOUGHT- AND NOT WITH THE PROPOSAL PUT BY US WHICH IS BASED ON THE VALUE OF THE ASSET BEING OBTAINED BY THE COMPANY

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MENT'S REVENUE NEEDS-A MATTER ON WHICH YOUR ADVICE HAS NEVER BEEN SOUGHT- AND NOT WITH THE PROPOSAL PUT BY US WHICH IS BASED ON THE VALUE OF THE ASSET BEING OBTAINED BY THE COMPANY

YOU PROMISED TO LET US HAVE YOUR COMPUTATION OF WHAT THE LIABILITY TO TAXES OF EACH COMPANY WOULD BE, BASED ON YOUR PROPOSAL, AND IT WOULD BE APPRECIATED IF YOU WOULD MAKE THIS AVAILABLE IMMEDIATELY.

MY FINAL COMMENT ON THE ESCALATION CLAUSE IS THAT IT IS NOT ONLY UNREALISTIC BUT QUITE UNACCEPTABLE TO THE TEAM.

WHILE ONE APPRECIATES YOUR NEED TO RAISE THE QUESTION OF THE EXISTING CONTRACTS AND ARRANGEMENTS, I CAN ONLY EMPHASISE

FOR YOUR BENEFIT THE PRIME MINISTER'S STATED POSITION ON THESE
CONTRACTS THAT GOVERNMENT CONTEMPLATES NEW ARRANGEMENTS BETWEEN
THE INDUSTRY AND THE GOVERNMENT WHICH ARE SO FAR RANGING IN
THEIR SCOPE THAT EVENTUALLY IT WILL BE NECESSARY TO SETTLE
THE FORM OF NEW AGREEMENTS. HEWITT

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S E C R E T SECTION 2 OF 2 KINGSTON 1244/2

EXDIS

SPEAKING PERSONALLY AS A CORPORATION LAWYER, I AM A BIT
CONCERNED ABOUT THE EMPHASIS BEING PLACED ON THE SANCTITY OF
THESE CONTRACTS WITH THE GOVERNMENT, A SOVEREIGN STATE,
WHEN THERE IS ABUNDANT EVIDENCE THAT CONTRACTUAL ARRANGEMENTS
BETWEEN CORPORATIONS ARE BEING BROKEN AND STRAINED BECAUSE
OF THE PRESENT WORLD-WIDE DIFFICULTIES IN OBTAINING AND SUPPLYING
RAW MATERIALS. IT MAY BE INTERESTING FOR THE COMPANIES'
REPRESENTATIVES TO DIRECT THEIR ATTENTION TO AN EXCEEDINGLY
INTERESTING ARTICLE APPEARING IN THE WALL STREET JOURNAL
OF THE 26TH MARCH, 1974 ENTITLED "MANY CONTRACTS NOW AREN'T
WORTH PAPER THEY'RE PRINTED ON" WHICH DEALS WITH THIS VERY PROBLEM,
AND
OF THE CONSTANT RE-NEGOTIATION OF CONTRACTS
BETWEEN UNITED STATES CORPORATIONS. IN FACT, EARLIER
IN THESE VERY NEGOTIATIONS, WE RAISED THE QUESTION OF REYNOLDS
CONTRACTUAL RELATIONSHIP WITH THE STATE OF ARKANSAS WHICH HAD
BEEN RE-NEGOTIATED FOR REASONS SIMILAR TO THOSE BEING RAISED
IN THIS CASE.

WE ARE ALSO RATHER CONCERNED THAT YOU HAVE PLACED SO
MUCH EMPHASIS ON THE SO-CALLED PRINCIPLE OF NON-DISCRIMINATION AS
IT AFFECTS TAXATION. IF THERE IS ONE THING THAT IS DISCRIM-

INATORY IT IS DIRECT TAXATION SINCE IT IS NORMALLY BASED UPON
THE ABILITY TO PAY. IN PRACTICE IT IS THE CASE THAT YOU HAVE
ENJOYED MORE FAVOURABLE TREATMENT THAN OTHER COMPANIES IN JAMAICA,
AT LEAST TO THE EXTENT THAT THE GOVERNMENT HAS FOLLOWED THE
PRACTICE OF OFFERING TO NEGOTIATE RATHER THAN TO IMPOSE TAXES

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UPON YOUR COMPANIES. WE FIND IT RATHER ODD THAT YOU SHOULD
RAISE THIS PARTICULAR QUESTION. IN FACT WE HAD EXPECTED
SOME APPRECIATION FROM YOU OF THE POINT THAT WHATEVER MAY HAVE
BEEN THE CASE IN THE PAST, THE GOVERNMENT CANNOT CONTINUE
TO EXTEND TO YOU MORE PRIVILEGES THAN
IT GIVES TO OTHER NON-RESIDENT AND LOCAL COMPANIES.

FINALLY, I WOULD LIKE TO SUGGEST TO THE COMPANIES THAT
THEY CONSIDER VERY SERIOUSLY WHILE THE OPPORTUNITY IS STILL
OPEN, WHAT SUBMISSIONS THEY WOULD WISH TO MAKE ON THE QUESTION
OF TAXATION, AND IT WOULD SUGGEST THAT THIS BE TREATED AS A
A MATTER OF URGENCY. I WOULD ALSO LIKE TO EMPHASISE THAT WHEN
THE NEXT SET OF SITTINGS ARE CONVENED, IT IS PROPOSED TO SIT
CONTINUOUSLY UNTIL THE MATTERS ARE DISPOSED OF, AND I WISH
TO ALERT EVERYONE TO THIS FACT SO THAT THEY WILL PREPARE
THEMSELVES FOR LONG AND CONTINUOUS SITTINGS WITH A VIEW TO BRINGING
THE MATTER TO A SATISFACTORY CONCLUSION.

I AM OPEN TO SUGGESTIONS ON WHEN THE SITTINGS SHOULD
RESUME, BEARING IN MIND THE NEED FOR SPEED IN CONCLUDING THE
QUESTION OF TAXATION.

P. H. O. ROUSSEAU
APRIL, 1974.

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